



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,) Magistrate Case No. 07MJ8861
11 Plaintiff,)
12 v.) **FINDINGS OF FACT AND
13 Carissa NORIEGA,) ORDER OF DETENTION**
14 Defendant.)
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16 In accordance with § 3142(f) of the Bail Reform Act of 1984 (18 U.S.C. § 3141 et seq.),
17 a detention hearing was held on October 23, 2007, to determine whether defendant Carissa NORIEGA,
18 should be held in custody pending trial on the grounds that she is a flight risk. Assistant U. S. Attorney
19 W. Mark Canover appeared on behalf of the United States. Diane Regan of Federal Defenders of San
20 Diego, Inc., appeared on behalf of the Defendant.

21 Based on the evidence proffered by the United States and the Defendant, the Pretrial Services
22 Report, and the criminal complaint issued against the Defendant on October 22, 2007, by this Court, the
23 Court concludes that the following facts establish by a preponderance of the evidence that no condition
24 or combination of conditions will reasonably assure the appearance of the Defendant required.

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FINDINGS OF FACT3
A. Nature and Circumstances of the Offense Charged (18 U.S.C. §3142(G)(1)

4 1. The Defendant is charged in Criminal Complaint No. 07MJ8861 with the importation
5 of 26.13 kilograms (57.49 pounds) of cocaine in violation of 21 U.S.C. § 952 and 960. Therefore,
6 probable cause exists to believe the Defendant committed the charged offense.

7 2. The charged offense is an offense for which a maximum term of imprisonment of
8 10 years or more is prescribed in the Uniform Controlled Substances Act (21 U.S.C. § 801 et seq.). Thus,
9 there arises a presumption that no condition or combination of conditions will reasonably assure the
10 appearance of the Defendant as required. See 18 U.S.C. § 3142(e).

11 3. The offense carries with it a minimum mandatory 10 year sentence and a maximum
12 life sentence. See 21 U.S.C. § 960(b)(1)(B). According to the United States Sentencing Guidelines,
13 the Base Offense level is 32. See USSG § 2D1.1(3). Assuming the Defendant's criminal history score
14 places her in Criminal History Category I, See USSG § 4A1.1, the sentencing range for the Defendant
15 is 168-210 months in prison.

16 B. Weight of the Evidence Against the Defendant (18 U.S.C. § 3142(g)(2):

17 1. On July 26, 2007, Defendant was the driver and registered owner of a 1989 Nissan
18 Maxima. Defendant was accompanied by her three minor children as she entered the Andrade,
19 California, Port of Entry. The Primary Officer noticed the gas tank had a wet appearance and sounded
20 solid when tapped. Defendant, her children, and the vehicle were referred to the secondary inspection
21 area. A Narcotic Detector Dog alerted to the rear seat of the vehicle. A subsequent search of the vehicle
22 resulted in the discovery of 26.13 kilograms (57.49 pounds) of cocaine concealed in a non-factory
23 compartment located in the gas tank of the vehicle. Defendant admitted knowledge to the presence of
24 a controlled substance concealed in the vehicle.

25 C. History and Characteristics of the Defendant (18 U.S.C. § 3142(G)(3):

26 1. The Defendant is a United States citizen.
27 2. Defendant has not been employed since 2003.
28 3. The Defendant and her children reside in Yuma, Arizona and in Sonora, Mexico.

1 4. Defendant's mother resides in Yuma, Arizona.

2 D. Nature and Seriousness of Danger Posed by Release (18 U.S.C. § 3142(g)(4)):

3 1. The government proffered no evidence to suggest that release of the Defendant
4 would pose a danger to any person or the community. The Defendant has the following criminal
5 history:

6 03/30/06 - 11377(A) H&S Possess Controlled Substance - Diversion
7 09/30/04 - Misdemeanor 488 PC Petty Theft - 14 days jail, 36 months probation, \$320 fine
8 09/30/04 - Count 1: Warrant 11377(A) H&S Possess Controlled Substance
9 Count 2: Warrant 14601.1(A) VC Drive While License Suspend/etc.
10 Count 3: Warrant 488 PC Petty Theft
11 Count 4: Warrant 488 Petty theft
12 Count 5: Warrant 14601.1(A) VC Drive While License Suspend/etc.

II

REASONS FOR DETENTION

13 A. There is probable cause to believe that the Defendant committed the offense charged in
14 Criminal Complaint Number 07MJ8861, to wit: the importation of 26.13 kilograms (57.49 pounds) of
15 cocaine in violation of 21 U.S.C. § 952 and 960.

16 B. The Defendant faces a substantial period of time in custody if convicted of the offense
17 charged in the Complaint. He therefore has a strong motive to flee.

18 C. The Defendant has not rebutted the presumption, based upon the Court's findings that
19 there is probable cause to believe that the Defendant committed an offense for which a maximum term
20 of imprisonment of 10 years or more is prescribed in the Controlled Substances Act (21 U.S.C. § 801
21 et seq.), that no condition or combination of conditions will reasonably assure the appearance of the
22 Defendant at future court proceedings.

III

ORDER

25 IT IS HEREBY ORDERED that the Defendant be detained pending trial in this matter.

26 IT IS FURTHER ORDERED that the Defendant be committed to the custody of the Attorney
27 General or his designated representative for confinement in a corrections facility separate, to the extent
28 practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The
Defendant shall be afforded reasonable opportunity for private consultation with counsel.

1 While in custody, upon order of a court of the United States or upon the request of an attorney
2 for the United States, the person in charge of the correctional facility shall deliver the Defendant to the
3 United States Marshal for the purpose of an appearance in connection with a court proceeding or any
4 other appearance stipulated to by defense and government counsel.

5 THIS ORDER IS ENTERED WITHOUT PREJUDICE.

6 IT IS SO ORDERED.

7 DATED: 10 - 26 - 07.

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10 
11 PETER C. LEWIS
12 UNITED STATES MAGISTRATE JUDGE

13 Prepared by:

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15 
16 KAREN P. HEWITT
17 United States Attorney

18 cc: Diane Regan of
19 Federal Defenders of San Diego, Inc.

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